THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7282 of 2007

Dated:10.04.2007

Between:

Bejawada Suryaprakash Rao and others.

… Petitioners

AND

State of Andhra Pradesh and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7282 of 2007

ORDER:

The land admeasuring Acs.8.41½ cents in R.S.No.10/2 situated at Vakalapudi Village of Kakinada Rural Mandal in East Godavari District belongs to the third respondent, which is a registered Charitable Institution. The same was allegedly leased out to the petitioners. All of them made an application before the Assistant Commissioner of Endowments, Rajahmundry, claiming that they are landless poor persons entitled for the benefit under subsection (2) of Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'). Their contention was rejected, aggrieved by which, the petitioners preferred an appeal before the second respondent. By an order dated 13.10.2006, the second respondent came to the conclusion that the petitioners are not landless poor persons, and accordingly dismissed the appeal filed under Rule 4 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (for short 'the Rules'). The petitioners then preferred a revision under Section 93 of the Act, which was rejected by the first respondent by Memorandum No.56286/Endts.IV(2)/2006, dated 05.03.2007. This Writ Petition is filed assailing the said order.

Learned Counsel for the petitioners submits that the Assistant Commissioner as well as the Regional Joint Commissioner did not conduct proper enquiry before rejecting the claim of the petitioners that they are landless poor persons. He also submits that the third

respondent is accepting Maktha regularly from the petitioners and the petitioners do not own any other movable or immovable property, and therefore, they are entitled to continue as tenants by taking advantage of Section 82(2) of the Act. **Opposing** the Writ Petition, the learned Assistant Government Pleader for Endowments and the learned Standing Counsel for the third respondent submits that possession was already taken on 28.11.2006 and that the petitioners are not entitled to claim any benefit, as they are not landless poor persons.

A perusal of the impugned order would show that lease was granted initially to the first petitioner and others, but not to petitioners 2 to 5 herein. It appears, they filed a Writ Petition, being W.P.No.13983 of 2004, before this Court, and this Court fixed the rent of twenty bags per acre, and accordingly, the lease was extended from 1999-2000 to 2003-2004. It was also noticed that the father of petitioners 1 to 3 owns ancestral properties in Survey Nos.7/1, 7/2, 13/3A, 21, 23, 25/1 and 105/1 situated at Vakalapudi Village, and petitioners 1 and 2 are also owners of city buses bearing Nos.AP 5Y 4577, AP 5Y 3488 and AP 5Y 455. Therefore, they cannot be treated as landless poor persons. As per the explanation under Section 82(2) of the Act a landless poor person means a person whose total extent of land held by him either as owner or as cultivating tenant or as both does not exceed two and half acres of wet land or five acres dry land and whose monthly income other than from such lands does not exceed thousand rupees per mensum or twelve thousand rupees per annum. The Assistant Commissioner and the Regional Joint Commissioner conducted enquiry into these aspects and based on the facts came to the conclusion that the petitioners are not landless poor persons. The first respondent also found that one of the petitioners is having leasehold rights over an extent of Acs.40.90 cents of Sri Kukkuteswara Swamy Temple, Pithapuram, and Acs.6.47 cents of wet land of Sri Venugopala Swamy Temple, Thimmapuram. The first respondent appreciated this aspect of the matter in proper perspective before rejecting the revision petition.

Learned Counsel for the petitioners very strenuously contends that the petitioners have raised casuarinas Tope plantation and it is ready for harvest and they may be permitted to take the crop. Dealing with this aspect of the matter, the first respondent observed that when the proceedings were pending before the Assistant Commissioner, Regional Joint Commissioner and the Government, the petitioners

intentionally raised long duration plantation without valid lease, and therefore, they are not entitled for equities.

After giving anxious consideration to the entire background and the facts of the case, this Court does not find any infirmity in the said observations, and the petitioners cannot claim any equities.

The Writ Petition is devoid of merits, and is accordingly dismissed. No costs.

_____

(**V.V.S.RAO, J**)

10.04.2007
vs